

111TH CONGRESS
2D SESSION

H. R. 6116

To reform the financing of House elections, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 14, 2010

Mr. LARSON of Connecticut (for himself, Mr. JONES, Mr. CAPUANO, Ms. PINGREE of Maine, Mr. HOLT, Mr. PLATTS, Mr. NADLER of New York, Mr. COOPER, Mr. HEINRICH, Mr. POLIS of Colorado, Ms. EDWARDS of Maryland, and Mr. DOYLE) introduced the following bill; which was referred to the Committee on House Administration, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To reform the financing of House elections, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Fair Elections Now Act”.

6 (b) TABLE OF CONTENTS.—The table of contents of
7 this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings and declarations.

TITLE I—FAIR ELECTIONS FINANCING OF HOUSE ELECTION
CAMPAIGNS

Sec. 101. Benefits and eligibility requirements for House candidates.

“TITLE V—FAIR ELECTIONS FINANCING OF HOUSE ELECTION
CAMPAIGNS

“Subtitle A—Benefits

“Sec. 501. Benefits for participating candidates.

“Sec. 502. Allocations from the Fund.

“Sec. 503. Matching payments for certain small dollar contributions.

“Subtitle B—Eligibility and Certification

“Sec. 511. Eligibility.

“Sec. 512. Qualifying requirements.

“Sec. 513. Certification.

“Subtitle C—Requirements for Candidates Certified as Participating
Candidates

“Sec. 521. Contribution, expenditure, and fundraising requirements.

“Sec. 522. Debate requirement.

“Sec. 523. Remitting unspent funds after election.

“Subtitle D—Administrative Provisions

“Sec. 531. Fair Elections Fund.

“Sec. 532. Fair Elections Oversight Board.

“Sec. 533. Administration by Commission.

“Sec. 534. Violations and penalties.

“Sec. 535. Election cycle defined.

Sec. 102. Transfer of portion of civil money penalties into Fair Elections Fund.

Sec. 103. Prohibiting use of contributions by participating candidates for purposes other than campaign for election.

Sec. 104. Prohibition on joint fundraising committees.

Sec. 105. Limitation on coordinated expenditures by political party committees with participating candidates.

Sec. 106. Deposit of proceeds from recovered spectrum auctions.

TITLE II—RESPONSIBILITIES OF THE FEDERAL ELECTION
COMMISSION

Sec. 201. Petition for certiorari.

Sec. 202. Filing by all candidates with Commission.

Sec. 203. Electronic filing of FEC reports.

TITLE III—MISCELLANEOUS PROVISIONS

Sec. 301. Severability.

Sec. 302. Effective date.

1 **SEC. 2. FINDINGS AND DECLARATIONS.**

2 (a) UNDERMINING OF DEMOCRACY BY CAMPAIGN
3 CONTRIBUTIONS FROM PRIVATE SOURCES.—The House
4 of Representatives finds and declares that the current sys-
5 tem of privately financed campaigns for election to the
6 House of Representatives has the capacity, and is often
7 perceived by the public, to undermine democracy in the
8 United States by—

9 (1) creating a culture that fosters actual or per-
10 ceived conflicts of interest, by encouraging Members
11 of the House to accept large campaign contributions
12 from private interests that are directly affected by
13 Federal legislation;

14 (2) diminishing or appearing to diminish Mem-
15 bers' accountability to constituents by compelling
16 legislators to be accountable to the major contribu-
17 tors who finance their election campaigns;

18 (3) undermining the meaning of the right to
19 vote by allowing monied interests to have a dis-
20 proportionate and unfair influence within the polit-
21 ical process;

22 (4) imposing large, unwarranted costs on tax-
23 payers through legislative and regulatory distortions
24 caused by unequal access to lawmakers for campaign
25 contributors;

1 (5) making it difficult for some qualified can-
2 didates to mount competitive House election cam-
3 paigns;

4 (6) disadvantaging challengers and discouraging
5 competitive elections, because large campaign con-
6 tributors tend to donate their money to incumbent
7 Members, thus causing House elections to be less
8 competitive; and

9 (7) burdening incumbents with a preoccupation
10 with fundraising and thus decreasing the time avail-
11 able to carry out their public responsibilities.

12 (b) ENHANCEMENT OF DEMOCRACY BY PROVIDING
13 ALLOCATIONS FROM THE FAIR ELECTIONS FUND.—The
14 House of Representatives finds and declares that pro-
15 viding the option of the replacement of large private cam-
16 paign contributions with allocations from the Fair Elec-
17 tions Fund for all primary, runoff, and general elections
18 to the House of Representatives would enhance American
19 democracy by—

20 (1) reducing the actual or perceived conflicts of
21 interest created by fully private financing of the elec-
22 tion campaigns of public officials and restoring pub-
23 lic confidence in the integrity and fairness of the
24 electoral and legislative processes through a program
25 which allows participating candidates to adhere to

1 substantially lower contribution limits for contribu-
2 tors with an assurance that there will be sufficient
3 funds for such candidates to run viable electoral
4 campaigns;

5 (2) increasing the public's confidence in the ac-
6 countability of Members to the constituents who
7 elect them, which derives from the program's quali-
8 fying criteria to participate in the voluntary program
9 and the conclusions that constituents may draw re-
10 garding candidates who qualify and participate in
11 the program;

12 (3) helping to reduce the ability to make large
13 campaign contributions as a determinant of a citi-
14 zen's influence within the political process by facili-
15 tating the expression of support by voters at every
16 level of wealth, encouraging political participation,
17 incentivizing participation on the part of Members
18 through the matching of small dollar contributions;

19 (4) potentially saving taxpayers billions of dol-
20 lars that may be (or that are perceived to be) cur-
21 rently allocated based upon legislative and regu-
22 latory agendas skewed by the influence of campaign
23 contributions;

1 (5) creating genuine opportunities for all Amer-
 2 icans to run for the House of Representatives and
 3 encouraging more competitive elections;

4 (6) encouraging participation in the electoral
 5 process by citizens of every level of wealth; and

6 (7) freeing Members from the incessant pre-
 7 occupation with raising money, and allowing them
 8 more time to carry out their public responsibilities.

9 **TITLE I—FAIR ELECTIONS FI-**
 10 **NANCING OF HOUSE ELEC-**
 11 **TION CAMPAIGNS**

12 **SEC. 101. BENEFITS AND ELIGIBILITY REQUIREMENTS FOR**
 13 **HOUSE CANDIDATES.**

14 The Federal Election Campaign Act of 1971 (2
 15 U.S.C. 431 et seq.) is amended by adding at the end the
 16 following:

17 **“TITLE V—FAIR ELECTIONS FI-**
 18 **NANCING OF HOUSE ELEC-**
 19 **TION CAMPAIGNS**

20 **“Subtitle A—Benefits**

21 **“SEC. 501. BENEFITS FOR PARTICIPATING CANDIDATES.**

22 “(a) IN GENERAL.—If a candidate for election to the
 23 office of Representative in, or Delegate or Resident Com-
 24 missioner to, the Congress is a participating candidate
 25 under this title with respect to an election for such office,

1 the candidate shall be entitled to payments under this
2 title, to be used only for authorized expenditures in con-
3 nection with the election.

4 “(b) TYPES OF PAYMENTS.—The payments to which
5 a participating candidate is entitled under this section
6 consist of—

7 “(1) allocations from the Fair Elections Fund,
8 as provided in section 502; and

9 “(2) payments from the Fair Elections Fund to
10 match certain small dollar contributions, as provided
11 in section 503.

12 **“SEC. 502. ALLOCATIONS FROM THE FUND.**

13 “(a) AMOUNT OF ALLOCATIONS.—

14 “(1) PRIMARY ELECTION ALLOCATION; INITIAL
15 ALLOCATION.—Except as provided in paragraph (6),
16 the Commission shall make an allocation from the
17 Fair Elections Fund established under section 531
18 to a candidate who is certified as a participating
19 candidate with respect to a primary election in an
20 amount equal to 40 percent of the base amount.

21 “(2) PRIMARY RUNOFF ELECTION ALLOCA-
22 TION.—The Commission shall make an allocation
23 from the Fund to a candidate who is certified as a
24 participating candidate with respect to a primary
25 runoff election in an amount equal to 25 percent of

1 the amount the participating candidate was eligible
2 to receive under this section for the primary election.

3 “(3) GENERAL ELECTION ALLOCATION.—Ex-
4 cept as provided in paragraph (6), the Commission
5 shall make an allocation from the Fund to a can-
6 didate who is certified as a participating candidate
7 with respect to a general election in an amount
8 equal to 60 percent of the base amount.

9 “(4) GENERAL RUNOFF ELECTION ALLOCA-
10 TION.—The Commission shall make an allocation
11 from the Fund to a candidate who is certified as a
12 participating candidate with respect to a general
13 runoff election in an amount equal to 25 percent of
14 the base amount.

15 “(5) RECOUNT ALLOCATION.—If the appro-
16 priate State or local election official conducts a re-
17 count of an election, the Commission shall make an
18 allocation from the Fund to a participating can-
19 didate for expenses relating to the recount in an
20 amount equal to 25 percent of the amount the par-
21 ticipating candidate was eligible to receive under this
22 section for the election involved.

23 “(6) UNCONTESTED ELECTIONS.—

24 “(A) IN GENERAL.—In the case of a pri-
25 mary or general election that is an uncontested

1 election, the Commission shall make an alloca-
2 tion from the Fund to a participating candidate
3 for such election in an amount equal to 25 per-
4 cent of the allocation for that election with re-
5 spect to such candidate.

6 “(B) UNCONTESTED ELECTION DE-
7 FINED.—For purposes of this subparagraph, an
8 election is uncontested if not more than 1 can-
9 didate has campaign funds (including payments
10 from the Fund) in an amount equal to or great-
11 er than 10 percent of the allocation a candidate
12 would be entitled to receive under this section
13 for that election (determined without regard to
14 this paragraph).

15 “(b) BASE AMOUNT.—The base amount is an amount
16 equal to 80 percent of the national average disbursements
17 of the cycle by winning candidates for the office of Rep-
18 resentative in, or Delegate or Resident Commissioner to,
19 the Congress in the last 2 election cycles.

20 “(c) TIMING; METHOD OF PAYMENT.—

21 “(1) TIMING.—The Commission shall make the
22 allocations required under subsection (a) to a par-
23 ticipating candidate—

24 “(A) in the case of amounts provided
25 under subsection (a)(1), not later than 48 hours

1 after the date on which such candidate is cer-
2 tified as a participating candidate under section
3 513;

4 “(B) in the case of a general election, not
5 later than 48 hours after—

6 “(i) the date of the certification of the
7 results of the primary election or the pri-
8 mary runoff election; or

9 “(ii) in any case in which there is no
10 primary election, the date the candidate
11 qualifies to be placed on the ballot;

12 “(C) in the case of a primary runoff elec-
13 tion or a general runoff election, not later than
14 48 hours after the certification of the results of
15 the primary election or the general election, as
16 the case may be; and

17 “(D) in the case of a recount allocation,
18 not later than 48 hours after the appropriate
19 State or local election official orders the holding
20 of the recount.

21 “(2) METHOD OF PAYMENT.—The Commission
22 shall distribute funds available to participating can-
23 didates under this section through the use of an
24 electronic funds exchange or a debit card.

1 **“SEC. 503. MATCHING PAYMENTS FOR CERTAIN SMALL**
2 **DOLLAR CONTRIBUTIONS.**

3 “(a) IN GENERAL.—The Commission shall pay to
4 each participating candidate an amount equal to 400 per-
5 cent of the amount of qualified small dollar contributions
6 received by the candidate from individuals who are resi-
7 dents of the State in which such participating candidate
8 is seeking election.

9 “(b) LIMITATION.—The maximum payment under
10 this section shall be the greater of—

11 “(1) 200 percent of the allocation under para-
12 graphs (1) through (4) of section 502(a) for that
13 election with respect to such candidate; or

14 “(2) the percentage of the allocation determined
15 by the Commission under section 532(c)(2).

16 “(c) TIME OF PAYMENT.—The Commission shall
17 make payments under this section not later than 2 busi-
18 ness days after the receipt of a report made under sub-
19 section (d).

20 “(d) REPORTS.—

21 “(1) IN GENERAL.—Each participating can-
22 didate shall file reports of receipts of qualified small
23 dollar contributions at such times and in such man-
24 ner as the Commission may by regulations prescribe.

25 “(2) CONTENTS OF REPORTS.—Each report
26 under this subsection shall disclose—

1 “(A) the amount of each qualified small
2 dollar contribution received by the candidate;

3 “(B) the amount of each qualified small
4 dollar contribution received by the candidate
5 from a resident of the State in which the can-
6 didate is seeking election; and

7 “(C) the name, address, and occupation of
8 each individual who made a qualified small dol-
9 lar contribution to the candidate.

10 “(3) FREQUENCY OF REPORTS.—Reports under
11 this subsection shall be made no more frequently
12 than—

13 “(A) once every month until the date that
14 is 90 days before the date of the election;

15 “(B) once every week after the period de-
16 scribed in subparagraph (A) and until the date
17 that is 21 days before the election; and

18 “(C) once every day after the period de-
19 scribed in subparagraph (B).

20 “(4) LIMITATION ON REGULATIONS.—The
21 Commission may not prescribe any regulations with
22 respect to reporting under this subsection with re-
23 spect to any election after the date that is 180 days
24 before the date of such election.

1 “(e) APPEALS.—The Commission shall provide a
 2 written explanation with respect to any denial of any pay-
 3 ment under this section and shall provide for the oppor-
 4 tunity for review and reconsideration within 5 business
 5 days of such denial.

6 “(f) QUALIFIED SMALL DOLLAR CONTRIBUTION DE-
 7 FINED.—The term ‘qualified small dollar contribution’
 8 means, with respect to a participating candidate, any con-
 9 tribution (or a series of contributions)—

10 “(1) which is not a qualifying contribution (or
 11 does not include a qualifying contribution);

12 “(2) which is made by an individual who is not
 13 prohibited from making a contribution under this
 14 Act; and

15 “(3) the aggregate amount of which does not
 16 exceed the greater of—

17 “(A) \$100 per election; or

18 “(B) the amount determined by the Fair
 19 Elections Oversight Board under section
 20 532(c)(2).

21 **“Subtitle B—Eligibility and** 22 **Certification**

23 **“SEC. 511. ELIGIBILITY.**

24 “(a) IN GENERAL.—A candidate for the office of
 25 Representative in, or Delegate or Resident Commissioner

1 to, the Congress is eligible to be certified as a participating
2 candidate under this title with respect to an election if
3 the candidate meets the following requirements:

4 “(1) During the election cycle for the office in-
5 volved, the candidate files with the Commission a
6 statement of intent to seek certification as a partici-
7 pating candidate.

8 “(2) The candidate meets the qualifying re-
9 quirements of section 512.

10 “(3) Not later than the last day of the Fair
11 Elections qualifying period, the candidate files with
12 the Commission an affidavit signed by the candidate
13 and the treasurer of the candidate’s principal cam-
14 paign committee declaring that the candidate—

15 “(A) has complied and, if certified, will
16 comply with the contribution and expenditure
17 requirements of section 521;

18 “(B) if certified, will comply with the de-
19 bate requirements of section 522;

20 “(C) if certified, will run only as a partici-
21 pating candidate for all elections for the office
22 that such candidate is seeking during the elec-
23 tion cycle; and

24 “(D) has either qualified or will take steps
25 to qualify under State law to be on the ballot.

1 “(b) GENERAL ELECTION.—Notwithstanding sub-
2 section (a), a candidate shall not be eligible to receive an
3 allocation from the Fund for a general election or a gen-
4 eral runoff election unless the candidate’s party nominated
5 the candidate to be placed on the ballot for the general
6 election or the candidate is otherwise qualified to be on
7 the ballot under State law.

8 “(c) FAIR ELECTIONS QUALIFYING PERIOD DE-
9 FINED.—The term ‘Fair Elections qualifying period’
10 means, with respect to any candidate for the office of Rep-
11 resentative in, or Delegate or Resident Commissioner to,
12 the Congress, the 120-day period (during the election cycle
13 for such office) which begins on the date on which the
14 candidate files a statement of intent under section
15 511(a)(1), except that such period may not continue after
16 the date that is 60 days before—

17 “(1) the date of the primary election; or

18 “(2) in the case of a State that does not hold
19 a primary election, the date prescribed by State law
20 as the last day to qualify for a position on the gen-
21 eral election ballot.

22 **“SEC. 512. QUALIFYING REQUIREMENTS.**

23 “(a) RECEIPT OF QUALIFYING CONTRIBUTIONS.—A
24 candidate for the office of Representative in, or Delegate
25 or Resident Commissioner to, the Congress meets the re-

1 requirement of this section if, during the Fair Elections
 2 qualifying period described in section 511(c), the can-
 3 didate obtains—

4 “(1) a single qualifying contribution from a
 5 number of individuals equal to or greater than the
 6 lesser of—

7 “(A) .25% of the voting age population of
 8 the State involved (as reported in the most re-
 9 cent decennial census), or

10 “(B) 1,500; and

11 “(2) a total dollar amount of qualifying con-
 12 tributions equal to or greater than \$50,000.

13 “(b) REQUIREMENTS RELATING TO RECEIPT OF
 14 QUALIFYING CONTRIBUTION.—Each qualifying contribu-
 15 tion—

16 “(1) may be made by means of a personal
 17 check, money order, debit card, credit card, or elec-
 18 tronic payment account;

19 “(2) shall be accompanied by a signed state-
 20 ment containing—

21 “(A) the contributor’s name and the con-
 22 tributor’s address in the State in which the pri-
 23 mary residence of the contributor is located;

24 “(B) an oath declaring that the contrib-
 25 utor—

1 “(i) understands that the purpose of
2 the qualifying contribution is to show sup-
3 port for the candidate so that the can-
4 didate may qualify for Fair Elections fi-
5 nancing;

6 “(ii) is making the contribution in his
7 or her own name and from his or her own
8 funds;

9 “(iii) has made the contribution will-
10 ingly; and

11 “(iv) has not received any thing of
12 value in return for the contribution; and

13 “(3) shall be acknowledged by a receipt that is
14 sent to the contributor with a copy kept by the can-
15 didate for the Commission and a copy kept by the
16 candidate for the election authorities in the State
17 with respect to which the candidate is seeking elec-
18 tion.

19 “(c) VERIFICATION OF QUALIFYING CONTRIBU-
20 TIONS.—The Commission shall establish procedures for
21 the auditing and verification of qualifying contributions to
22 ensure that such contributions meet the requirements of
23 this section.

24 “(d) PROHIBITING PAYMENT ON COMMISSION BASIS
25 OF INDIVIDUALS COLLECTING QUALIFYING CONTRIBU-

1 TIONS.—No person may be paid a commission on a per
 2 qualifying contribution basis for collecting qualifying con-
 3 tributions.

4 “(e) QUALIFYING CONTRIBUTION DEFINED.—In this
 5 section, the term ‘qualifying contribution’ means, with re-
 6 spect to a candidate, a contribution that—

7 “(1) is in an amount that is—

8 “(A) not less than the greater of \$5 or the
 9 amount determined by the Commission under
 10 section 532(c)(2), and

11 “(B) not more than the greater of \$100 or
 12 the amount determined by the Commission
 13 under section 532(c)(2);

14 “(2) is made by an individual—

15 “(A) who has a primary residence in the
 16 State in which such Candidate is seeking elec-
 17 tion, and

18 “(B) who is not otherwise prohibited from
 19 making a contribution under this Act;

20 “(3) is made during the Fair Elections quali-
 21 fying period described in section 511(c); and

22 “(4) meets the requirements of subsection (b).

23 **“SEC. 513. CERTIFICATION.**

24 “(a) DEADLINE AND NOTIFICATION.—

1 “(1) IN GENERAL.—Not later than 5 days after
2 a candidate files an affidavit under section
3 511(a)(3), the Commission shall—

4 “(A) determine whether or not the can-
5 didate meets the requirements for certification
6 as a participating candidate;

7 “(B) if the Commission determines that
8 the candidate meets such requirements, certify
9 the candidate as a participating candidate; and

10 “(C) notify the candidate of the Commis-
11 sion’s determination.

12 “(2) DEEMED CERTIFICATION FOR ALL ELEC-
13 TIONS IN ELECTION CYCLE.—If the Commission cer-
14 tifies a candidate as a participating candidate with
15 respect to the first election of the election cycle in-
16 volved, the Commissioner shall be deemed to have
17 certified the candidate as a participating candidate
18 with respect to all subsequent elections of the elec-
19 tion cycle.

20 “(b) REVOCATION OF CERTIFICATION.—

21 “(1) IN GENERAL.—The Commission may re-
22 voke a certification under subsection (a) if—

23 “(A) a candidate fails to qualify to appear
24 on the ballot at any time after the date of cer-
25 tification (other than a candidate certified as a

1 participating candidate with respect to a pri-
2 mary election who fails to qualify to appear on
3 the ballot for a subsequent election in that elec-
4 tion cycle); or

5 “(B) a candidate otherwise fails to comply
6 with the requirements of this title, including
7 any regulatory requirements prescribed by the
8 Commission.

9 “(2) REPAYMENT OF BENEFITS.—If certifi-
10 cation is revoked under paragraph (1), the candidate
11 shall repay to the Fair Elections Fund established
12 under section 531 an amount equal to the value of
13 benefits received under this title with respect to the
14 election cycle involved plus interest (at a rate deter-
15 mined by the Commission) on any such amount re-
16 ceived.

17 “(c) PARTICIPATING CANDIDATE DEFINED.—In this
18 title, a ‘participating candidate’ means a candidate for the
19 office of Representative in, or Delegate or Resident Com-
20 missioner to, the Congress who is certified under this sec-
21 tion as eligible to receive benefits under this title.

1 **“Subtitle C—Requirements for Can-**
2 **didates Certified as Partici-**
3 **pating Candidates**

4 **“SEC. 521. CONTRIBUTION, EXPENDITURE, AND FUND-**
5 **RAISING REQUIREMENTS.**

6 “(a) CONTRIBUTIONS.—

7 “(1) PERMITTED SOURCES OF CONTRIBU-
8 TIONS.—Except as provided in subsection (c), a can-
9 didate who is certified as a participating candidate
10 with respect to an election shall, with respect to all
11 elections occurring during the election cycle for the
12 office involved, accept no contributions from any
13 source (including an unexpended contribution re-
14 ceived by the candidate with respect to a previous
15 election or a contribution made by any political com-
16 mittee or multicandidate committee) other than—

17 “(A) qualifying contributions described in
18 section 512;

19 “(B) qualified small dollar contributions
20 described in section 503;

21 “(C) allocations under section 502; and

22 “(D) payments under section 503.

23 “(2) CONTRIBUTIONS FOR LEADERSHIP AND
24 RELATED PACS.—A political committee of a partici-
25 pating candidate which is not an authorized com-

mittee of such candidate may accept contributions other than contributions described in paragraph (1) from any person if—

“(A) the aggregate amount of the contributions from such person for any election during the election cycle does not exceed \$100; and

“(B) no portion of such contributions is disbursed in connection with the campaign of the participating candidate.

“(b) EXPENDITURES.—

“(1) PERMITTED SOURCES FOR EXPENDITURES.—Except as provided in subsection (c), a candidate who is certified as a participating candidate with respect to an election shall, with respect to all elections occurring during the election cycle for the office involved—

“(A) make no expenditures from any amounts other than—

“(i) qualifying contributions described in section 512;

“(ii) qualified small dollar contributions described in section 503;

“(iii) allocations under section 502; and

1 “(iv) payments under section 503; and

2 “(B) make no expenditures from personal
3 funds or the funds of any immediate family
4 member of the candidate (other than funds re-
5 ceived through qualified small dollar contribu-
6 tions and qualifying contributions).

7 “(2) IMMEDIATE FAMILY MEMBER DEFINED.—
8 In paragraph (1)(B), the term ‘immediate family’
9 means, with respect to a candidate—

10 “(A) the candidate’s spouse;

11 “(B) a child, stepchild, parent, grand-
12 parent, brother, half-brother, sister, or half-sis-
13 ter of the candidate or the candidate’s spouse;
14 and

15 “(C) the spouse of any person described in
16 subparagraph (B).

17 “(c) EXCEPTIONS.—

18 “(1) EXCEPTION FOR CONTRIBUTIONS RE-
19 CEIVED PRIOR TO FILING OF STATEMENT OF IN-
20 TENT.—A candidate who has accepted contributions
21 that are not qualified small dollar contributions,
22 qualifying contributions, or contributions described
23 in paragraph (a)(2) prior to the date the candidate
24 files a statement of intent under section 511(a)(1)

1 is not in violation of subsection (a), but only if all
2 such contributions are—

3 “(A) returned to the contributor;

4 “(B) submitted to the Commission for de-
5 posit in the Fair Elections Fund established
6 under section 531; or

7 “(C) spent in accordance with paragraph
8 (2).

9 “(2) EXCEPTION FOR EXPENDITURES MADE
10 PRIOR TO FILING OF STATEMENT OF INTENT.—If a
11 candidate has made expenditures prior to the date
12 the candidate files a statement of intent under sec-
13 tion 511(a)(1) that the candidate is prohibited from
14 making under subsection (b), the candidate is not in
15 violation of such subsection if the aggregate amount
16 of the prohibited expenditures is less than 20 per-
17 cent of the amount of an initial allocation to a can-
18 didate under section 502(a)(1).

19 “(3) EXCEPTION FOR CAMPAIGN SURPLUSES
20 FROM A PREVIOUS ELECTION.—Notwithstanding
21 paragraph (1), unexpended contributions received by
22 the candidate or the an authorized committee of the
23 candidate with respect to a previous election may be
24 retained, but only if the candidate places the funds
25 in escrow and refrains from raising additional funds

1 for or spending funds from that account during the
2 election cycle in which a candidate is a participating
3 candidate.

4 “(4) EXCEPTION FOR CONTRIBUTIONS RE-
5 CEIVED BEFORE THE EFFECTIVE DATE OF THIS
6 TITLE.—Contributions received and expenditures
7 made by the candidate or an authorized committee
8 of the candidate prior to the effective date of this
9 title shall not constitute a violation of subsection (a)
10 or (b). Unexpended contributions shall be treated
11 the same as campaign surpluses under paragraph
12 (3), and expenditures made shall count against the
13 limit in paragraph (2).

14 “(d) SPECIAL RULE FOR COORDINATED PARTY EX-
15 PENDITURES.—For purposes of this section, a payment
16 made by a political party in coordination with a partici-
17 pating candidate shall not be treated as a contribution to
18 or as an expenditure made by the participating candidate.

19 **“SEC. 522. DEBATE REQUIREMENT.**

20 “A candidate who is certified as a participating can-
21 didate with respect to an election shall, during the election
22 cycle for the office involved, participate in at least—

23 “(1) 1 public debate before the primary election
24 with other participating candidates and other willing

1 candidates from the same party and seeking the
 2 same nomination as such candidate; and

3 “(2) 2 public debates before the general election
 4 with other participating candidates and other willing
 5 candidates seeking the same office as such can-
 6 didate.

7 **“SEC. 523. REMITTING UNSPENT FUNDS AFTER ELECTION.**

8 “(a) IN GENERAL.—Not later than the date that is
 9 60 days after the last election for which a candidate cer-
 10 tified as a participating candidate qualifies to be on the
 11 ballot during the election cycle involved, such participating
 12 candidate shall remit to the Commission for deposit in the
 13 Fair Elections Fund established under section 531 an
 14 amount equal to the lesser of—

15 “(1) the amount of money in the candidate’s
 16 campaign account; or

17 “(2) the sum of the allocations received by the
 18 candidate under section 502 and the payments re-
 19 ceived by the candidate under section 503.

20 “(b) EXCEPTION FOR EXPENDITURES INCURRED
 21 BUT NOT PAID AS OF DATE OF REMITTANCE.—

22 “(1) IN GENERAL.—Subject to subsection (a), a
 23 candidate may withhold from the amount required to
 24 be remitted under paragraph (1) of such subsection
 25 the amount of any authorized expenditures which

were incurred in connection with the candidate's campaign but which remain unpaid as of the deadline applicable to the candidate under such subsection, except that any amount withheld pursuant to this paragraph shall be remitted to the Commission not later than 120 days after the date of the election to which such subsection applies.

“(2) DOCUMENTATION REQUIRED.—A candidate may withhold an amount of an expenditure pursuant to paragraph (1) only if the candidate submits documentation of the expenditure and the amount to the Commission not later than the deadline applicable to the candidate under subsection (a).

“Subtitle D—Administrative Provisions

“SEC. 531. FAIR ELECTIONS FUND.

“(a) ESTABLISHMENT.—There is established in the Treasury a fund to be known as the ‘Fair Elections Fund’.

“(b) AMOUNTS HELD BY FUND.—The Fund shall consist of the following amounts:

“(1) APPROPRIATED AMOUNTS.—Amounts appropriated to the Fund, including trust fund amounts appropriated pursuant to applicable provisions of the Internal Revenue Code of 1986.

1 “(2) VOLUNTARY CONTRIBUTIONS.—Voluntary
2 contributions to the Fund.

3 “(3) TRANSFERS RESULTING FROM PAYMENT
4 OF CIVIL PENALTIES.—Amounts transferred into the
5 Fund pursuant to section 309(a)(13).

6 “(4) PROCEEDS FROM RECOVERED SPECTRUM
7 AUCTIONS.—Amounts deposited pursuant to section
8 309(j)(8)(E)(ii)(II) of the Communications Act of
9 1934.

10 “(5) OTHER DEPOSITS.—Amounts deposited
11 into the Fund under—

12 “(A) section 521(a)(3) (relating to excep-
13 tions to contribution requirements);

14 “(B) section 523 (relating to remittance of
15 allocations from the Fund);

16 “(C) section 534 (relating to violations);
17 and

18 “(D) any other section of this Act.

19 “(6) INVESTMENT RETURNS.—Interest on, and
20 the proceeds from, the sale or redemption of, any
21 obligations held by the Fund under subsection (c).

22 “(c) INVESTMENT.—The Commission shall invest
23 portions of the Fund in obligations of the United States
24 in the same manner as provided under section 9602(b)
25 of the Internal Revenue Code of 1986.

1 “(d) USE OF FUND.—

2 “(1) IN GENERAL.—The sums in the Fund
3 shall be used to provide benefits to participating
4 candidates as provided in subtitle A.

5 “(2) INSUFFICIENT AMOUNTS.—Under regula-
6 tions established by the Commission, rules similar to
7 the rules of section 9006(c) of the Internal Revenue
8 Code of 1986 shall apply.

9 **“SEC. 532. FAIR ELECTIONS OVERSIGHT BOARD.**

10 “(a) ESTABLISHMENT.—There is established within
11 the Federal Election Commission an entity to be known
12 as the ‘Fair Elections Oversight Board’.

13 “(b) STRUCTURE AND MEMBERSHIP.—

14 “(1) IN GENERAL.—The Board shall be com-
15 posed of 5 members appointed by the President, of
16 whom—

17 “(A) 2 shall be appointed after consulta-
18 tion with the Majority Leader of the House of
19 Representatives;

20 “(B) 2 shall be appointed after consulta-
21 tion with the Minority Leader of the House of
22 Representatives; and

23 “(C) 1 shall be appointed upon the rec-
24 ommendation of the members appointed under
25 subparagraphs (A) and (B).

1 “(2) QUALIFICATIONS.—

2 “(A) IN GENERAL.—The members shall be
3 individuals who are nonpartisan and, by reason
4 of their education, experience, and attainments,
5 exceptionally qualified to perform the duties of
6 members of the Board.

7 “(B) PROHIBITION.—No member of the
8 Board may be—

9 “(i) an employee of the Federal gov-
10 ernment;

11 “(ii) a registered lobbyist or an indi-
12 vidual who was a registered lobbyist at any
13 time during the 2-year period preceding
14 appointment to the Board; or

15 “(iii) an officer or employee of a polit-
16 ical party or political campaign.

17 “(3) DATE.—Members of the Board shall be
18 appointed not later than 60 days after the date of
19 the enactment of this Act.

20 “(4) TERMS.—A member of the Board shall be
21 appointed for a term of 5 years.

22 “(5) VACANCIES.—A vacancy on the Board
23 shall be filled not later than 30 calendar days after
24 the date on which the Board is given notice of the
25 vacancy, in the same manner as the original ap-

1 pointment. The individual appointed to fill the va-
2 cancy shall serve only for the unexpired portion of
3 the term for which the individual's predecessor was
4 appointed.

5 “(6) CHAIRPERSON.—The Board shall des-
6 ignate a Chairperson from among the members of
7 the Board.

8 “(c) DUTIES AND POWERS.—

9 “(1) ADMINISTRATION.—The Board shall have
10 such duties and powers as the Commission may pre-
11 scribe, including the power to administer the provi-
12 sions of this title.

13 “(2) REVIEW OF FAIR ELECTIONS FINANC-
14 ING.—

15 “(A) IN GENERAL.—After each regularly
16 scheduled general election for Federal office,
17 the Board shall conduct a comprehensive review
18 of the Fair Elections financing program under
19 this title, including—

20 “(i) the maximum dollar amount of
21 qualified small dollar contributions under
22 section 503(f);

23 “(ii) the maximum and minimum dol-
24 lar amounts for qualifying contributions
25 under section 512(d);

1 “(iii) the number and value of quali-
2 fying contributions a candidate is required
3 to obtain under section 512(a) to be eligi-
4 ble for certification as a participating can-
5 didate;

6 “(iv) the amount of allocations that
7 candidates may receive under section 502;

8 “(v) the maximum amount of pay-
9 ments a candidate may receive under sec-
10 tion 503;

11 “(vi) the overall satisfaction of partici-
12 pating candidates and the American public
13 with the program; and

14 “(vii) such other matters relating to
15 financing of House of Representatives
16 campaigns as the Board determines are
17 appropriate.

18 “(B) CRITERIA FOR REVIEW.—In con-
19 ducting the review under subparagraph (A), the
20 Board shall consider the following:

21 “(i) QUALIFYING CONTRIBUTIONS
22 AND QUALIFIED SMALL DOLLAR CON-
23 TRIBUTIONS.—The Board shall consider
24 whether the number and dollar amount of
25 qualifying contributions required and max-

1 imum dollar amount for such qualifying
2 contributions and qualified small dollar
3 contributions strikes a balance regarding
4 the importance of voter involvement, the
5 need to assure adequate incentives for par-
6 ticipating, and fiscal responsibility, taking
7 into consideration the number of primary
8 and general election participating can-
9 didates, the electoral performance of those
10 candidates, program cost, and any other
11 information the Board determines is ap-
12 propriate.

13 “(ii) REVIEW OF PROGRAM BENE-
14 FITS.—The Board shall consider whether
15 the totality of the amount of funds allowed
16 to be raised by participating candidates
17 (including through qualifying contributions
18 and small dollar contributions), allocations
19 under section 502, and payments under
20 section 503 are sufficient for voters in each
21 State to learn about the candidates to cast
22 an informed vote, taking into account the
23 historic amount of spending by winning
24 candidates, media costs, primary election

1 dates, and any other information the
2 Board determines is appropriate.

3 “(C) ADJUSTMENT OF AMOUNTS.—

4 “(i) IN GENERAL.—Based on the re-
5 view conducted under subparagraph (A),
6 the Board shall provide for the adjust-
7 ments of the following amounts:

8 “(I) the maximum dollar amount
9 of qualified small dollar contributions
10 under section 503(f);

11 “(II) the maximum and min-
12 imum dollar amounts for qualifying
13 contributions under section 512(d);

14 “(III) the number and value of
15 qualifying contributions a candidate is
16 required to obtain under section
17 512(a) to be eligible for certification
18 as a participating candidate;

19 “(IV) the base amount for can-
20 didates under section 502(b); and

21 “(V) the maximum amount of
22 matching contributions a candidate
23 may receive under section 503(b).

24 “(ii) REGULATIONS.—The Commis-
25 sion shall promulgate regulations providing

1 for the adjustments made by the Board
2 under clause (i).

3 “(D) REPORT.—Not later than March 30
4 following any general election for Federal office,
5 the Board shall submit a report to Congress on
6 the review conducted under paragraph (1).
7 Such report shall contain a detailed statement
8 of the findings, conclusions, and recommenda-
9 tions of the Board based on such review.

10 “(d) MEETINGS AND HEARINGS.—

11 “(1) MEETINGS.—The Board may hold such
12 hearings, sit and act at such times and places, take
13 such testimony, and receive such evidence as the
14 Board considers advisable to carry out the purposes
15 of this Act.

16 “(2) QUORUM.—Three members of the Board
17 shall constitute a quorum for purposes of voting, but
18 a quorum is not required for members to meet and
19 hold hearings.

20 “(e) REPORTS.—Not later than March 30, 2011, and
21 every 2 years thereafter, the Board shall submit to the
22 Committee on House Administration of the House of Rep-
23 resentatives a report documenting, evaluating, and making
24 recommendations relating to the administrative implemen-
25 tation and enforcement of the provisions of this title.

1 “(f) ADMINISTRATION.—

2 “(1) COMPENSATION OF MEMBERS.—

3 “(A) IN GENERAL.—Each member, other
4 than the Chairperson, shall be paid at a rate
5 equal to the daily equivalent of the minimum
6 annual rate of basic pay prescribed for level IV
7 of the Executive Schedule under section 5315
8 of title 5, United States Code.

9 “(B) CHAIRPERSON.—The Chairperson
10 shall be paid at a rate equal to the daily equiva-
11 lent of the minimum annual rate of basic pay
12 prescribed for level III of the Executive Sched-
13 ule under section 5314 of title 5, United States
14 Code.

15 “(2) PERSONNEL.—

16 “(A) DIRECTOR.—The Board shall have a
17 staff headed by an Executive Director. The Ex-
18 ecutive Director shall be paid at a rate equiva-
19 lent to a rate established for the Senior Execu-
20 tive Service under section 5382 of title 5,
21 United States Code.

22 “(B) STAFF APPOINTMENT.—With the ap-
23 proval of the Chairperson, the Executive Direc-
24 tor may appoint such personnel as the Execu-

1 tive Director and the Board determines to be
2 appropriate.

3 “(C) EXPERTS AND CONSULTANTS.—With
4 the approval of the Chairperson, the Executive
5 Director may procure temporary and intermit-
6 tent services under section 3109(b) of title 5,
7 United States Code.

8 “(D) DETAIL OF GOVERNMENT EMPLOY-
9 EES.—Upon the request of the Chairperson, the
10 head of any Federal agency may detail, without
11 reimbursement, any of the personnel of such
12 agency to the Board to assist in carrying out
13 the duties of the Board. Any such detail shall
14 not interrupt or otherwise affect the civil service
15 status or privileges of the Federal employee.

16 “(E) OTHER RESOURCES.—The Board
17 shall have reasonable access to materials, re-
18 sources, statistical data, and other information
19 from the Library of Congress and other agen-
20 cies of the executive and legislative branches of
21 the Federal Government. The Chairperson of
22 the Board shall make requests for such access
23 in writing when necessary.

1 “(g) AUTHORIZATION OF APPROPRIATIONS.—There
2 are authorized to be appropriated such sums as are nec-
3 essary to carry out the purposes of this subtitle.

4 **“SEC. 533. ADMINISTRATION BY COMMISSION.**

5 “The Commission shall prescribe regulations to carry
6 out the purposes of this title, including regulations—

7 “(1) to establish procedures for—

8 “(A) verifying the amount of valid quali-
9 fying contributions with respect to a candidate;

10 “(B) effectively and efficiently monitoring
11 and enforcing the limits on the raising of quali-
12 fied small dollar contributions;

13 “(C) effectively and efficiently monitoring
14 and enforcing the limits on the use of personal
15 funds by participating candidates; and

16 “(D) monitoring the use of allocations
17 from the Fair Elections Fund established under
18 section 531 and matching contributions under
19 this title through audits of not fewer than $\frac{1}{3}$ of
20 all participating candidates or other mecha-
21 nisms; and

22 “(2) regarding the conduct of debates in a man-
23 ner consistent with the best practices of States that
24 provide public financing for elections.

1 **“SEC. 534. VIOLATIONS AND PENALTIES.**

2 “(a) CIVIL PENALTY FOR VIOLATION OF CONTRIBU-
3 TION AND EXPENDITURE REQUIREMENTS.—If a can-
4 didate who has been certified as a participating candidate
5 accepts a contribution or makes an expenditure that is
6 prohibited under section 521, the Commission shall assess
7 a civil penalty against the candidate in an amount that
8 is not more than 3 times the amount of the contribution
9 or expenditure. Any amounts collected under this sub-
10 section shall be deposited into the Fair Elections Fund
11 established under section 531.

12 “(b) REPAYMENT FOR IMPROPER USE OF FAIR
13 ELECTIONS FUND.—

14 “(1) IN GENERAL.—If the Commission deter-
15 mines that any benefit made available to a partici-
16 pating candidate was not used as provided for in
17 this title or that a participating candidate has vio-
18 lated any of the dates for remission of funds con-
19 tained in this title, the Commission shall so notify
20 the candidate and the candidate shall pay to the
21 Fund an amount equal to—

22 “(A) the amount of benefits so used or not
23 remitted, as appropriate; and

24 “(B) interest on any such amounts (at a
25 rate determined by the Commission).

1 “(2) OTHER ACTION NOT PRECLUDED.—Any
 2 action by the Commission in accordance with this
 3 subsection shall not preclude enforcement pro-
 4 ceedings by the Commission in accordance with sec-
 5 tion 309(a), including a referral by the Commission
 6 to the Attorney General in the case of an apparent
 7 knowing and willful violation of this title.

8 **“SEC. 535. ELECTION CYCLE DEFINED.**

9 “In this title, the term ‘election cycle’ means, with
 10 respect to an election for the office of Representative in,
 11 or Delegate or Resident Commissioner to, the Congress,
 12 the period beginning on the day after the date of the most
 13 recent general election for that office (or, if the general
 14 election resulted in a runoff election, the date of the runoff
 15 election) and ending on the date of the next general elec-
 16 tion for that office (or, if the general election resulted in
 17 a runoff election, the date of the runoff election).”.

18 **SEC. 102. TRANSFER OF PORTION OF CIVIL MONEY PEN-**
 19 **ALTIES INTO FAIR ELECTIONS FUND.**

20 Section 309(a) of the Federal Election Campaign Act
 21 of 1971 (2 U.S.C. 437g(a)) is amended by adding at the
 22 end the following new paragraph:

23 “(13) Upon receipt in the General Fund of the Treas-
 24 ury of any payment attributable to a civil money penalty
 25 imposed under this subsection, there shall be transferred

1 to the Fair Elections Fund established under section 531
2 an amount equal to 50 percent of the amount of such pay-
3 ment.”.

4 **SEC. 103. PROHIBITING USE OF CONTRIBUTIONS BY PAR-**
5 **TICIPATING CANDIDATES FOR PURPOSES**
6 **OTHER THAN CAMPAIGN FOR ELECTION.**

7 Section 313 of the Federal Election Campaign Act
8 of 1971 (2 U.S.C. 439a) is amended by adding at the end
9 the following new subsection:

10 “(d) RESTRICTIONS ON PERMITTED USES OF FUNDS
11 BY CANDIDATES RECEIVING FAIR ELECTIONS FINANC-
12 ING.—Notwithstanding paragraphs (2), (3), or (4) of sub-
13 section (a), if a candidate for election for the office of Rep-
14 resentative in, or Delegate or Resident Commissioner to,
15 the Congress is certified as a participating candidate
16 under title V with respect to the election, any contribution
17 which the candidate is permitted to accept under such title
18 may be used only for authorized expenditures in connec-
19 tion with the candidate’s campaign for such office.”.

20 **SEC. 104. PROHIBITION ON JOINT FUNDRAISING COMMIT-**
21 **TEES.**

22 Section 302(e) of the Federal Election Campaign Act
23 of 1971 (2 U.S.C. 432(e)) is amended by adding at the
24 end the following new paragraph:

1 “(6) No authorized committee of a candidate
 2 may establish a joint fundraising committee with a
 3 political committee other than an authorized com-
 4 mittee of a candidate.”.

5 **SEC. 105. LIMITATION ON COORDINATED EXPENDITURES**
 6 **BY POLITICAL PARTY COMMITTEES WITH**
 7 **PARTICIPATING CANDIDATES.**

8 (a) IN GENERAL.—Section 315(d)(3) of the Federal
 9 Election Campaign Act of 1971 (2 U.S.C. 441a(d)) is
 10 amended—

11 (1) by redesignating subparagraphs (A) and
 12 (B) as subparagraphs (B) and (C), respectively; and
 13 (2) by inserting before subparagraph (B), as re-
 14 designated by paragraph (1), the following new sub-
 15 paragraph:

16 “(A) in the case of a candidate for election
 17 to the office of Representative in, or Delegate
 18 or Resident Commissioner to, the Congress who
 19 is certified as a participating candidate under
 20 title V, the lesser of—

21 “(i) 10 percent of the allocation that
 22 the participating candidate is eligible to re-
 23 ceive for the general election under section
 24 502(a); or

1 “(ii) the amount which would (but for
2 this subparagraph) apply with respect to
3 such candidate under subparagraph (B);”.

4 (b) CONFORMING AMENDMENT.—Section 315(d)(3)
5 of such Act (2 U.S.C. 441a(d)(3)) is amended—

6 (1) in subparagraph (B) (as redesignated by
7 subsection (a)), by inserting “who is not certified as
8 a participating candidate under title V” after “only
9 one Representative”; and

10 (2) in subparagraph (C) (as redesignated by
11 subsection (a)), by inserting “who is not certified as
12 a participating candidate under title V” after “any
13 other State”.

14 **SEC. 106. DEPOSIT OF PROCEEDS FROM RECOVERED SPEC-**
15 **TRUM AUCTIONS.**

16 Section 309(j)(8)(E)(ii) of the Communications Act
17 of 1934 (47 U.S.C. 309(j)(8)(E)(ii)) is amended—

18 (1) by striking “deposited in” and inserting the
19 following: “deposited as follows:

20 “(I) 90 percent of such proceeds
21 deposited in”; and

22 (2) by adding at the end the following:

23 “(II) 10 percent of such proceeds
24 deposited in the Fair Elections Fund
25 established under section 531 of the

1 Federal Election Campaign Act of
2 1971.”.

3 **TITLE II—RESPONSIBILITIES OF**
4 **THE FEDERAL ELECTION**
5 **COMMISSION**

6 **SEC. 201. PETITION FOR CERTIORARI.**

7 Section 307(a)(6) of the Federal Election Campaign
8 Act of 1971 (2 U.S.C. 437d(a)(6)) is amended by insert-
9 ing “(including a proceeding before the Supreme Court on
10 certiorari)” after “appeal”.

11 **SEC. 202. FILING BY ALL CANDIDATES WITH COMMISSION.**

12 Section 302(g) of the Federal Election Campaign Act
13 of 1971 (2 U.S.C. 432(g)) is amended to read as follows:

14 “(g) FILING WITH THE COMMISSION.—All des-
15 ignations, statements, and reports required to be
16 filed under this Act shall be filed with the Commis-
17 sion.”.

18 **SEC. 203. ELECTRONIC FILING OF FEC REPORTS.**

19 Section 304(a)(11) of the Federal Election Campaign
20 Act of 1971 (2 U.S.C. 434(a)(11)) is amended—

21 (1) in subparagraph (A), by striking “under
22 this Act—” and all that follows and inserting
23 “under this Act shall be required to maintain and
24 file such designation, statement, or report in elec-
25 tronic form accessible by computers.”;

1 (2) in subparagraph (B), by striking “48
2 hours” and all that follows through “filed electroni-
3 cally)” and inserting “24 hours”; and

4 (3) by striking subparagraph (D).

5 **TITLE III—MISCELLANEOUS**
6 **PROVISIONS**

7 **SEC. 301. SEVERABILITY.**

8 If any provision of this Act or amendment made by
9 this Act, or the application of a provision or amendment
10 to any person or circumstance, is held to be unconstitu-
11 tional, the remainder of this Act and amendments made
12 by this Act, and the application of the provisions and
13 amendment to any person or circumstance, shall not be
14 affected by the holding.

15 **SEC. 302. EFFECTIVE DATE.**

16 Except as otherwise provided for in this Act, this Act
17 and the amendments made by this Act shall take effect
18 on January 1, 2011.

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